

REMARKS

This application has been carefully reviewed in light of the Office Action dated August 9, 2004. Claims 1, 3 to 6 and 8 are pending in the application, of which Claims 1 and 6 are independent. Reconsideration and further examination are respectfully requested.

As an initial matter, Applicant thanks the Examiner for the indication that Claims 2, 3 and 7 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 4 to 6, 9 and 10 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,771,315 (Matsuyama). Reconsideration and withdrawal of this rejection are respectfully requested.

Original independent Claim 1 was the base claim for objected-to dependent Claim 2. Amended independent Claim 1 has now been amended to be the same as objected-to Claim 2 as if objected-to Claim 2 were rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant believes that amended independent Claim 1 is now in condition for allowance and respectfully requests same.

Original independent Claim 6 was the base claim for objected-to dependent Claim 7. Amended independent Claim 6 has now been amended to be the same as objected-to Claim 7 as if objected-to Claim 7 were rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant submits that amended independent Claim 6 is now in condition for allowance and respectfully requests same.

Claim 8 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner stated that there was insufficient antecedent basis for the limitation "... calculates the sum total of errors between the distances between the plurality of marks ...". Applicant respectfully submits that this rejection is rendered

moot, as Claim 6 has now been amended to include all of the features of original Claim 7. Original Claim 7 included the appropriate elements needed to correct Claim 8's insufficient antecedent basis. Applicant believes that Claim 8 is now in condition for allowance and respectfully requests same.

Claims 9 and 10 were rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Applicant respectfully submits that this rejection is rendered moot by cancellation of Claims 9 and 10, and Applicant respectfully requests withdrawal of this rejection.

The other pending claims in this application are each dependent from the independent claims discussed above and are therefore believed patentable for the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicant's undersigned attorney may be reached in our Costa Mesa, CA office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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